

Amendments to the Drawings:

Please substitute the drawing sheet numbered ¼ submitted herewith and including
FIGs. 1 and 2 for drawing sheet ¼ presently on file.

REMARKS

Claims 1-37 are pending in the instant application. Claims 1-32 have been allowed, and claims 33-37 have been rejected by the Examiner. Claim 33 has been amended. The Applicants submit that claims 1-37 are in condition for allowance and request reconsideration and withdrawal of the outstanding rejections. No new matter has been entered.

Objections to the Drawings

The Examiner objected to the drawings because FIG. 1 shows only prior art and should be designated by an appropriate legend. Accordingly, a new substitute sheet numbered ¼ has been submitted herewith which labels FIG. 1 as "Prior Art". No new matter has been added.

Claim Rejections Under 35 USC § 101

Claims 33-37 have been rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. According to the Examiner, a computer data signal is non-statutory as being an intangible medium incapable of being touched or perceived absent the tangible medium through which it is conveyed. The Examiner alleges that, even if the data signal is stored in a computer-readable medium, the claim is nonetheless non-statutory. This reasoning is incorrect. In Appeal No. 2002-1554, *Ex Parte* Rice (Application 08/003,996), the BPAI reversed an examiner's rejection of data signal claims as being directed to non-statutory subject matter under 35 USC 101, holding that electromagnetic signals, although "transitory and ephemeral in nature", are statutory subject matter.

Section 2106 of Chapter 21 of the MPEP sets forth examination guidelines for computer-related inventions. Examiner training materials for computer-related inventions were published by the PTO on March 28, 1996, and are available to the public on request. Under the heading "Automotive Manufacturing Plant", these training materials set forth a sample of a statutory data signal claim as Example 13. The sample claim is directed to "A computer data signal embodied in a carrier wave comprising a compression source code segment comprising [the code]; and an encryption source code segment comprising [the code]". This sample claim was determined to include statutory subject matter. Claims directed to data signals embodied in carrier waves have been found statutory in dozens of issued patents, including 6,923,653, 5,534,933, 5,500,739, 5,991,330, 6,505,032, and others.

In view of the examination guidelines set forth in MPEP Section 2106 and the publicly available examiner training materials associated therewith, claim 33 has been amended to clearly and distinctly set forth statutory subject matter. More specifically, claim 33 now recites “[a] computer data signal embodied in a carrier wave representing a program for controlling a processor to execute a method for synchronizing data utilized in a redundant, closed-loop feedback control system. It is submitted that claim 33 is now directed to statutory subject matter.

Claims 34-37 depend from claim 33. Accordingly, applicants submit that claims 34-37 are allowable for at least the reasons discussed previously in connection with claim 33. Furthermore, applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

CONCLUSION

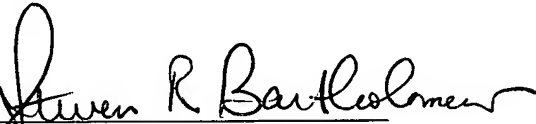
It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested. It is submitted that the foregoing amendments and remarks render the case in condition for allowance, and it is respectfully requested that claims 1-37 be passed to issue.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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By: 

Date: June 1, 2006

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